

Message Text

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ACTION EA-12

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TO SECSTATE WAHDC PRIORITY 330
INFO AMEMBASSY HONGKNG
AMCONSUL MEDAN
AMEMBASSY SINGAPORE
AMCONSUL SURABAYA

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TAGS: EFIN, ETRD, EINU, ID, US

SUBJ: INDONESIAN NATIONAL BOARD OF ARBITRATION

REF: STATE 168718

SUMMARY: WHILE STILL IN SHAKE-DOWN PHASE, THE INDONESIAN NATIONAL BOARD OF ARBITRATION(BANI) HA KNOWLEDGEABLE OFFICIALS WHO STATED THAT THEY HAD INTITATED DISCUSSIONS WITH GOI DEPARTMENT OF JUSTICE WITH VIEW OF HAVING GOI JOIN TWO IMPORTANT ARBITRAL CONVENTIONS.

2. EMBOFF RECENTLY MET WITH BANI OFFICIALS TO DISCUSS POINTS MADE IN REFTEL. EMBOFF FOUND BANI IN NEW OFFICES, IN A SHAKE-DOWN PHASE AND PLEASED THAT THE USG/US BUSINESS COMMUNITY WISHED THEM WELL. FOLLOWING ARE MAJOR POINTS MADE DURING MEETING.

3. ACCESSION INTERNATIONAL ARBITRATION ACCORDS: BANI HAS INITIATED DISCUSSIONS WITH GOI DEPARTMENT OF JUSTICE WITH THE VIEW OF HAVING GOI JOIN 1958 NEW YORK ARBITRAL CONVENTION.
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THIS IS IMPORTANT AS UNDER ITS TERMS THE CONTRACTING STATES ARE OBLIGATED TO ENFORCE ARBITRAL AWARDS RENDERED IN OTHER STATES. BANI ALSO IS DISCUSSING WITH DEPARTMENT OF JUSTICE POSSIBILITY OF OFFICIAL GOI STATEMENT OF INDONESIAN RECOGNITION OF 1927 GENEVA CONVENTION ON ARBITRAL AWARDS. BANI AGREES THAT IT IS NOT CLAR IF INDONESIA IS MEMBER OF GENEVA CONVENTION.

4. AVAILABILITY OF ENFORCEMENT OF ARBITRATION AWARDS:

BANI EXPLAINED THAT ITS ARBITRAL DECISIONS "ARE SIGNED" IN THE DISTRICT COURT. ENFORCEMENT WOULD COME THROUGH A COURT INDUCTION, IF ONE OF THE PARTIES TO THE DISPUTE REFUSED TO ACCEPT THE SETTLEMENT.

5. CURENT ACTIVITY: BANI HAS TAKEN ON "ONLY A FEW CASES";

IT VIEWS THIS YEAR AS PERIOD TO ESTABLISH WORKING PROCEDURES AND MAKE ITS PRESENCE KNOWN. HOWEVER, ONE OF DISPUTES UNDERTAKEN INVOLVES AN AMERICAN. WE WERE TOLD THAT BANI WILL UNDERTAKE CASES BOTH OF A NATIONAL AND INTERNATIONAL CHARACTER, INCLUDING CONTRACTUAL DISPUTES BETWEEN STATE-OWNED COMPANIES AND FOREIGN CORPORATIONS: INDIVIDUALS.

6. BANI IS EAGER TO SECURE FULL INFORMATION ON HOW ARBITRATION INSTITUTIONS OPERATE IN THE UNITED STATES AND ASKED SPECIFICALLY FOR INFORMATION ON REFERENCE DOCUMENTS AND APPROPRIATE JOURNALS. EMBOFF AGREED TO SEEK INFORMATION ALONG THESE LINES FROM

WASHINGTON, PER REF PARA 3.

7. EMBASSY COMMENT: IF BANI IS ABLE TO DO WHAT IT INTENDS, ESPECIALLY IF GOI BECOMES MEMBER OF 1958 NEW YORK ARBITRAL CONVENTION, IT APPEARS THAT BANI MAY PERHAPS BECOME INSTRUMENT FOR SETTLEMENT OF DISPUTES WITH U.S. FIRMS.

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8. EMBASSY WILL CONTINUE TO PROBE AND REPORT ON ACTIVITIES OF BANI AS APPROPRIATE.

9. ACTION REQUESTED: DEPARTMENT IS REQUESTED TO FURNISH INFORMATION ON REFERENCE DOCUMENTS AND JOURNALS AND ANY OTHER APPROPRIATE INFORMATION, INCLUDING INFORMATION ON US AND INTERNATIONAL PRACTICES, WHICH WE WILL PASS TO BANI.

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